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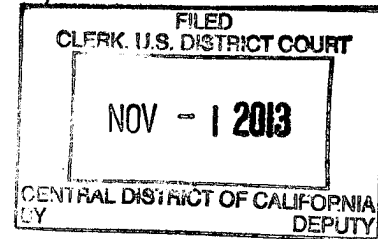
16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
18 **WESTERN DIVISION**

19 **ANTHONY ADDISON, MATTHEW**
20 **EHLY, SKYLER GAZLEY, PAUL**
21 **GUZIK, JEREMY LASATER,**
22 **CANH LE, SEAN MAGILL,**
23 **CHRISTOPHER PATCHE, ADAM**
24 **PHAN, ERIC RIVERA, JUAN**
25 **ROBLES, TINH TO, DAVID**
26 **VARAS, PIERRE COOPER,**
27 **JEFFREY KIDD, MICHAEL ZOPP,**
28 **and WAYNE SIMON,**

Plaintiffs,

v.

DIRECTV, INC., DIRECTV, LLC,
and DTV HOME SERVICES II,
LLC,



BY FAX

Case No.

COMPLAINT

CV 13-8109 ABC (JENX)

1. Violation of FLSA (29 U.S.C. § 201 et seq.)

2. Violation of California Minimum Wage and Overtime Law (Cal. Labor Code §§ 1194, 1197)

3. Failure to Pay Wages Due (Cal. Labor Code §§ 201, 202)

4. Unlawful Wage Deductions (Cal. Labor Code § 221)

5. Failure to Furnish Wage Statements (Cal. Labor Code § 226)

6. Willful Misclassification (Cal. Labor Code § 226.8)

7. Failure to Reimburse Business Expenses (Cal. Labor Code § 2802)

8. Record-Keeping Violations (Cal. Labor Code § 1174)

COMPLAINT

Defendants.

9. Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200 *et seq.*)

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiffs Anthony Addison, Matthew Ehly, Skyler Gazley, Paul Guzik, Jeremy Lasater, Canh Le, Sean Magill, Christopher Patche, Adam Phan, Eric Rivera, Juan Robles, Tinh To, David Varas, Pierre Cooper, Jeffrey Kidd, Michael Zopp, and Wayne Simon, by and through their undersigned counsel, for their individual complaints against DIRECTV, Inc. and DIRECTV LLC (together, "DIRECTV"); and DTV Home Services II, LLC ("DTV Home Services II") (collectively with DIRECTV, "Defendants") hereby state as follows:

1. Plaintiffs worked as satellite installation and repair technicians for Defendants.

2. Defendants paid Plaintiffs on a per-task basis that did not properly compensate them for all hours worked in an effort to deliberately deny them earned wages and overtime compensation in violation of the Fair Labor Standards Act ("FLSA") and state law.

JURISDICTION AND VENUE

3. The FLSA authorizes court actions by private parties to recover damages for violation of the FLSA's wage and hour provisions. Jurisdiction over Plaintiffs' FLSA claims is based upon 29 U.S.C. § 216(b) and 28 U.S.C. § 1331. Jurisdiction over Plaintiffs' state law claims is based upon 28 U.S.C. § 1367.

4. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b) and (c) because Defendant DIRECTV is deemed a resident of the Central District of California and DTV Home Services II is subject to personal jurisdiction in this District. Venue in the Western Division of the Central District of California is

proper because defendant DIRECTV maintains an office in the Western Division of this Court and a substantial part of the events giving rise to this claim occurred in and emanated from this Division. Further, upon information and belief, Defendants have each consented to personal jurisdiction and venue in the Central District of California for the claims alleged herein.

PARTIES

Defendants

DIRECTV

5. DIRECTV, Inc. is a Delaware corporation with its principal place of business in El Segundo, California. DIRECTV, Inc. does business as DIRECTV Home Services in the State of California and nationwide.

6. In December 2011, DIRECTV, Inc. merged with another DIRECTV entity, DIRECTV Operations, LLC. The resulting entity is known as DIRECTV, LLC, which is a Delaware corporation with its principal place of business in El Segundo, California.

7. All Plaintiffs were each jointly employed by defendant DIRECTV and bring individual claims against it.

DTV Home Services II, LLC

8. Defendant DTV Home Services II, LLC, is a Delaware limited liability company, based in Wilmington, Delaware. DTV Home Services II, LLC does business in California and nationwide.

9. All Plaintiffs were jointly employed by DTV Home Services II, LLC, and bring individual claims against it.

Agreements Between DIRECTV and DTV Home Services

10. DIRECTV uses a contract to govern the terms and conditions of its business relationship with DTV Home Services.

1 **Plaintiffs**

2 17. Plaintiffs previously filed consents to become party plaintiffs in *Lang*
3 *v. DIRECTV*, Case No. 10-1085, pending in the Eastern District of Louisiana. The
4 case was pending as a collective action until the court, on September 3, 2013,
5 granted the parties' joint motion decertifying the class, dismissed the opt-in
6 plaintiffs' claims without prejudice to pursuing the individual claims raised herein,
7 and ordered the statute of limitations for each opt-in plaintiff to continue to be
8 tolled for 60 days from the date of the order. *Lang v. DIRECTV*, Case No. 10-
9 1085-NJB (E.D. La.) (Docs. 466, 466-1).

10 **Anthony Addison**

11 18. Plaintiff Anthony Addison is an individual residing in the state of
12 California. Between approximately December 2008, and October, 2012, Anthony
13 Addison routinely worked more than 40 hours per week as a technician for
14 DIRECTV and DTV Home Services II, LLC and was unlawfully deprived of
15 overtime compensation.

16 19. In fact, Anthony Addison spent in excess of 60 hours per week
17 performing tasks for the benefit of Defendants, many unpaid.

18 20. Defendants' employment policies and practices detailed herein (*i.e.*,
19 imposing "chargebacks," failing to compensate Anthony Addison for all hours
20 worked, and failing to reimburse Anthony Addison's necessary business expenses)
21 resulted in Anthony Addison being routinely subjected to working at an effective
22 wage rate of less than the applicable minimum wage.

23 **Matthew Ehly**

24 21. Plaintiff Matthew Ehly is an individual residing in the state of
25 California. Between approximately January, 2011 and June, 2011, Matthew Ehly
26 routinely worked more than 40 hours per week as a technician for DIRECTV and
27

1 DTV Home Services II, LLC, and was unlawfully deprived of overtime
2 compensation.

3 22. In fact, Matthew Ehly spent in excess of 60 hours per week
4 performing tasks for the benefit of Defendants, many unpaid.

5 23. Defendants' employment policies and practices detailed herein (*i.e.*,
6 imposing "chargebacks," failing to compensate Matthew Ehly for all hours
7 worked, and failing to reimburse Matthew Ehly's necessary business expenses)
8 resulted in Matthew Ehly being routinely subjected to working at an effective wage
9 rate of less than the applicable minimum wage.

10 **Skyler Gazley**

11 24. Plaintiff Skyler Gazley is an individual residing in the state of
12 California. Between approximately 2010 and 2012, Skyler Gazley routinely
13 worked more than 40 hours per week as a technician for DIRECTV and DTV
14 Home Services II, LLC, and was unlawfully deprived of overtime compensation.

15 25. In fact, Skyler Gazley spent in excess of 60 hours per week
16 performing tasks for the benefit of Defendants, many unpaid.

17 26. Defendants' employment policies and practices detailed herein (*i.e.*,
18 imposing "chargebacks," failing to compensate Skyler Gazley for all hours
19 worked, and failing to reimburse Skyler Gazley's necessary business expenses)
20 resulted in Skyler Gazley being routinely subjected to working at an effective wage
21 rate of less than the applicable minimum wage.

22 **Paul Guzik**

23 27. Plaintiff Paul Guzik is an individual residing in the state of California.
24 Between approximately 2006 and the present, Paul Guzik routinely worked more
25 than 40 hours per week as a technician for DIRECTV, and DTV Home Services II,
26 LLC, and Mountain Satellite, and was unlawfully deprived of overtime
27 compensation.

1 28. In fact, Paul Guzik spent approximately 60 hours per week
2 performing tasks for the benefit of Defendants, many unpaid.

3 29. Defendants' employment policies and practices detailed herein (*i.e.*,
4 imposing "chargebacks," failing to compensate Paul Guzik for all hours worked,
5 and failing to reimburse Paul Guzik's necessary business expenses) resulted in
6 Paul Guzik being routinely subjected to working at an effective wage rate of less
7 than the applicable minimum wage.

8 **Jeremy Lasater**

9 30. Plaintiff Jeremy Lasater is an individual residing in the state of
10 California. Between approximately June, 2006 and February, 2013, Jeremy Lasater
11 routinely worked more than 40 hours per week as a technician for DIRECTV and
12 DTV Home Services II, LLC, and was unlawfully deprived of overtime
13 compensation.

14 31. In fact, Jeremy Lasater spent in excess of 60 hours per week
15 performing tasks for the benefit of Defendants, many unpaid.

16 32. Defendants' employment policies and practices detailed herein (*i.e.*,
17 imposing "chargebacks," failing to compensate Jeremy Lasater for all hours
18 worked, and failing to reimburse Jeremy Lasater's necessary business expenses)
19 resulted in Jeremy Lasater being routinely subjected to working at an effective
20 wage rate of less than the applicable minimum wage.

21 **Canh Le**

22 33. Plaintiff Canh Le is an individual residing in the state of California.
23 Between approximately September, 2009 and August, 2012, Canh Le routinely
24 worked more than 40 hours per week as a technician for DIRECTV and DTV
25 Home Services II, LLC, and was unlawfully deprived of overtime compensation.

26 34. In fact, Canh Le spent in excess of 60 hours per week performing
27 tasks for the benefit of Defendants, many unpaid.

1 35. Defendants' employment policies and practices detailed herein (*i.e.*,
2 imposing "chargebacks," failing to compensate Canh Le for all hours worked, and
3 failing to reimburse Canh Le's necessary business expenses) resulted in Canh Le
4 being routinely subjected to working at an effective wage rate of less than the
5 applicable minimum wage.

6 **Sean Magill**

7 36. Plaintiff Sean Magill is an individual residing in the state of
8 California. Between approximately September, 2011 and March, 2012, Sean
9 Magill routinely worked more than 40 hours per week as a technician for
10 DIRECTV and DTV Home Services II, LLC, and was unlawfully deprived of
11 overtime compensation.

12 37. In fact, Sean Magill spent approximately 50 hours per week
13 performing tasks for the benefit of Defendants, many unpaid.

14 38. Defendants' employment policies and practices detailed herein (*i.e.*,
15 imposing "chargebacks," failing to compensate Sean Magill for all hours worked,
16 and failing to reimburse Sean Magill's necessary business expenses) resulted in
17 Sean Magill being routinely subjected to working at an effective wage rate of less
18 than the applicable minimum wage.

19 **Christopher Patche**

20 39. Plaintiff Christopher Patche is an individual residing in the state of
21 California. Between approximately January, 2011 and February, 2012, Christopher
22 Patche routinely worked more than 40 hours per week as a technician for
23 DIRECTV, DTV Home Services II, LLC, and Mountain Satellite, and was
24 unlawfully deprived of overtime compensation.

25 40. In fact, Christopher Patche spent in excess of 60 hours per week
26 performing tasks for the benefit of Defendants, many unpaid.

1 41. Defendants' employment policies and practices detailed herein (*i.e.*,
2 imposing "chargebacks," failing to compensate Christopher Patche for all hours
3 worked, and failing to reimburse Christopher Patche's necessary business
4 expenses) resulted in Christopher Patche being routinely subjected to working at an
5 effective wage rate of less than the applicable minimum wage.

6 **Adam Phan**

7 42. Plaintiff Adam Phan is an individual residing in the state of
8 California. Between approximately August, 2008 and February, 2012, Adam Phan
9 routinely worked more than 40 hours per week as a technician for DIRECTV and
10 DTV Home Services II, LLC, and was unlawfully deprived of overtime
11 compensation.

12 43. In fact, Adam Phan spent in excess of 60 hours per week performing
13 tasks for the benefit of Defendants, many unpaid.

14 44. Defendants' employment policies and practices detailed herein (*i.e.*,
15 imposing "chargebacks," failing to compensate Adam Phan for all hours worked,
16 and failing to reimburse Adam Phan's necessary business expenses) resulted in
17 Adam Phan being routinely subjected to working at an effective wage rate of less
18 than the applicable minimum wage.

19 **Eric Rivera**

20 45. Plaintiff Eric Rivera is an individual residing in the state of California.
21 From between 2009 and 2012, Eric Rivera routinely worked more than 40 hours
22 per week as a technician for DIRECTV and DTV Home Services II, LLC, and was
23 unlawfully deprived of overtime compensation.

24 46. In fact, Eric Rivera spent in excess of 60 hours per week performing
25 tasks for the benefit of Defendants, many unpaid.

26 47. Defendants' employment policies and practices detailed herein (*i.e.*,
27 imposing "chargebacks," failing to compensate Eric Rivera for all hours worked,
28

1 and failing to reimburse Eric Rivera's necessary business expenses) resulted in
2 Eric Rivera being routinely subjected to working at an effective wage rate of less
3 than the applicable minimum wage.

4 **Juan Robles**

5 48. Plaintiff Juan Robles is an individual residing in the state of
6 California. Between approximately 2007 and the present, Juan Robles routinely
7 worked more than 40 hours per week as a technician for DIRECTV and DTV
8 Home Services II, LLC, and was unlawfully deprived of overtime compensation.

9 49. In fact, Juan Robles spent in excess of 60 hours per week performing
10 tasks for the benefit of Defendants, many unpaid.

11 50. Defendants' employment policies and practices detailed herein (*i.e.*,
12 imposing "chargebacks," failing to compensate Juan Robles for all hours worked,
13 and failing to reimburse Anthony Addison's necessary business expenses) resulted
14 in Juan Robles being routinely subjected to working at an effective wage rate of
15 less than the applicable minimum wage.

16 **Tinh To**

17 51. Plaintiff Tinh To is an individual residing in the state of California.
18 Between approximately 2008 and 2011, Tinh To routinely worked more than 40
19 hours per week as a technician for DIRECTV and DTV Home Services II, LLC,
20 and was unlawfully deprived of overtime compensation.

21 52. In fact, Tinh To spent in excess of 60 hours per week performing tasks
22 for the benefit of Defendants, many unpaid.

23 53. Defendants' employment policies and practices detailed herein (*i.e.*,
24 imposing "chargebacks," failing to compensate Tinh To for all hours worked, and
25 failing to reimburse Tinh To's necessary business expenses) resulted in Tinh To
26 being routinely subjected to working at an effective wage rate of less than the
27 applicable minimum wage.

1 **David Varas**

2 54. Plaintiff David Varas is an individual residing in the state of
3 California. Between approximately February, 2009 and June, 2012, David Varas
4 routinely worked more than 40 hours per week as a technician for DIRECTV and
5 DTV Home Services II, LLC, and was unlawfully deprived of overtime
6 compensation.

7 55. In fact, David Varas spent in excess of 60 hours per week performing
8 tasks for the benefit of Defendants, many unpaid.

9 56. Defendants' employment policies and practices detailed herein (*i.e.*,
10 imposing "chargebacks," failing to compensate David Varas for all hours worked,
11 and failing to reimburse David Varas' necessary business expenses) resulted in
12 David Varas being routinely subjected to working at an effective wage rate of less
13 than the applicable minimum wage.

14 **Pierre Cooper**

15 57. Plaintiff Pierre Cooper is an individual residing in the state of Texas.
16 Between approximately 2010 and 2013, Pierre Cooper routinely worked more than
17 40 hours per week as a technician for DIRECTV and DTV Home Services II, LLC,
18 and was unlawfully deprived of overtime compensation.

19 58. In fact, Pierre Cooper spent approximately 50 hours per week
20 performing tasks for the benefit of Defendants, many unpaid.

21 59. Defendants' employment policies and practices detailed herein (*i.e.*,
22 imposing "chargebacks," failing to compensate Pierre Cooper for all hours worked,
23 and failing to reimburse Pierre Cooper's necessary business expenses) resulted in
24 Pierre Cooper being routinely subjected to working at an effective wage rate of less
25 than the applicable minimum wage.

Jeffrey Kidd

60. Plaintiff Jeffrey Kidd is an individual residing in the state of Texas. Between approximately 2007 and 2011, Jeffrey Kidd routinely worked more than 40 hours per week as a technician for DIRECTV and DTV Home Services II, LLC, and was unlawfully deprived of overtime compensation.

61. In fact, Jeffrey Kidd spent approximately 55 hours per week performing tasks for the benefit of Defendants, many unpaid.

62. Defendants' employment policies and practices detailed herein (*i.e.*, imposing "chargebacks," failing to compensate Jeffrey Kidd for all hours worked, and failing to reimburse Jeffrey Kidd's necessary business expenses) resulted in Jeffrey Kidd being routinely subjected to working at an effective wage rate of less than the applicable minimum wage.

Michael Zopp

63. Plaintiff Michael Zopp is an individual residing in the state of Texas. Between approximately 2011 and 2013, Michael Zopp routinely worked more than 40 hours per week as a technician for DIRECTV and DTV Home Services II, LLC, and was unlawfully deprived of overtime compensation.

64. In fact, Michael Zopp spent in excess of 60 hours per week performing tasks for the benefit of Defendants, many unpaid.

65. Defendants' employment policies and practices detailed herein (*i.e.*, imposing "chargebacks," failing to compensate Michael Zopp for all hours worked, and failing to reimburse Michael Zopp's necessary business expenses) resulted in Michael Zopp being routinely subjected to working at an effective wage rate of less than the applicable minimum wage.

Wayne Simon

66. Plaintiff Wayne Simon is an individual residing in the state of Texas. Between approximately August, 2009 and September 2012, Wayne Simon

1 routinely worked more than 40 hours per week as a technician for DIRECTV and
2 DTV Home Services II, LLC, and was unlawfully deprived of overtime
3 compensation.

4 67. In fact, Wayne Simon spent in excess of 60 hours per week
5 performing tasks for the benefit of Defendants, many unpaid.

6 68. Defendants' employment policies and practices detailed herein (*i.e.*,
7 imposing "chargebacks," failing to compensate Wayne Simon for all hours
8 worked, and failing to reimburse Wayne Simon's necessary business expenses)
9 resulted in Wayne Simon being routinely subjected to working at an effective wage
10 rate of less than the applicable minimum wage.

11 GENERAL ALLEGATIONS

12 69. Defendants are, and were at all times relevant herein, in the business
13 of, among other things, providing satellite television service to businesses and
14 consumers. Installation and repair of satellite dishes, receivers, and related
15 equipment is an integral part of DIRECTV's business.

16 70. Plaintiffs were jointly employed by Defendants as technicians.

17 71. Plaintiffs' principal job duty as technicians is or was to install and
18 repair DIRECTV satellite television service.

19 72. Plaintiffs typically started their workdays after receiving daily work
20 schedules assigned through DIRECTV's dispatching systems. DIRECTV used a
21 database program known as SIEBEL to coordinate the assignment of particular
22 work orders to technicians using each technician's unique "Tech ID Number."

23 73. After receiving their daily work schedules, Plaintiffs typically called
24 the customer contact for each of their assigned jobs to confirm the timeframe
25 within which the technician expected to arrive at the customer's home. Plaintiffs
26 then traveled to their first assigned job and thereafter continued to complete the
27 jobs assigned by Defendants in the proscribed order on the daily work schedule.

1 Upon arriving at each job site, Plaintiffs were required to check-in via telephone
2 with DIRECTV via its dispatching system. At the end of an assigned job, Plaintiffs
3 were required to report to DIRECTV that the installation was complete and,
4 thereafter, worked directly with DIRECTV employees to activate the customer's
5 service.

6 74. When performing DIRECTV's work, Plaintiffs were required by
7 Defendants to wear a uniform with DIRECTV insignia on it. Additionally,
8 Plaintiffs were required to display DIRECTV insignia on vehicles driven to
9 customers' homes for installations. Plaintiffs were required to purchase these
10 uniforms and insignia, typically from Defendants.

11 75. Plaintiffs were not paid for all hours they worked for Defendants.
12 Rather, they were paid on a per-task (a/k/a piece rate) basis for satisfactorily
13 completing a DIRECTV-approved satellite installation. There was no contract,
14 memorandum, or other document between Plaintiffs and Defendants
15 memorializing or explaining this pay system.

16 76. In addition to the certain tasks Defendants designated as compensable,
17 Plaintiffs performed other work each week during the relevant time period for
18 Defendants, such as assembling satellite dishes, driving to and between job
19 assignments, reviewing and receiving schedules, calling customers to confirm
20 installations, obtaining required supplies, attending required meetings, assisting
21 other technicians with installations, performing required customer educations,
22 contacting DIRECTV to report in or activate service, working on installations that
23 were not completed, and working on "rollbacks" installations where Plaintiffs had
24 to return and perform additional work on installations for which they had already
25 been paid.

1 77. Plaintiffs were not paid for these integral and indispensable tasks that
2 were necessary to their principal activity of installing and repairing DIRECTV
3 satellite television service.

4 78. Plaintiffs routinely worked more than 40 hours per week for
5 Defendants, as alleged in more detail previously.

6 79. Defendants did not pay Plaintiffs' wages free and clear. Rather,
7 Plaintiffs were subjected to "chargebacks" wherein Defendants would deduct
8 amounts from Plaintiffs' pay if there were problems with an installation up to 90
9 days after the customer's service was activated. The chargeback would occur for a
10 variety of reasons, many of which were out of Plaintiffs' control.

11 80. DTV Home Services, II, LLC has records that should allow a more
12 precise calculation of the amounts of the chargebacks taken out of Plaintiffs' pay.

13 81. In addition to chargebacks, Plaintiffs were also required to purchase
14 supplies necessary to perform installations, such as screws, poles, concrete, and
15 cables.

16 82. The required purchase of these supplies for Defendants' financial
17 benefit reduced Plaintiffs' wages, including overtime pay.

18 83. Plaintiffs were not paid an overtime premium for work done beyond
19 40 hours in a given workweek.

20 84. Defendants' policy and practice of imposing "chargebacks," failing to
21 compensate Plaintiffs for all hours worked, and failing to reimburse Plaintiffs'
22 necessary business expenses resulted in Plaintiffs being routinely subjected to
23 working at an effective wage rate of less than the applicable minimum wage.

24 **Defendants Are Joint Employers of Plaintiffs**

25 85. DIRECTV exerted significant control over DTV Home Services II,
26 LLC and Plaintiffs regarding the essential terms and conditions of Plaintiffs'
27 employment.

1 86. DTV Home Services II, LLC was merely a “middle man” or “straw
2 man” through which DIRECTV exerted control over Plaintiffs.

3 87. Although hiring was generally done at the DTV Home Services II,
4 LLC’s level, DIRECTV controlled the details of Plaintiffs’ day-to-day work.

5 88. DIRECTV, through DTV Home Services II, LLC exercised
6 significant control over Plaintiffs’ daily work lives, including, but not limited to,
7 control over what work Plaintiffs performed, where that work was performed,
8 when that work was performed, and how that work was performed.

9 89. DIRECTV, through DTV Home Services II, LLC also determined
10 whether Plaintiffs’ work merited compensation, including setting the rate of pay,
11 the method of payment, whether chargebacks or rollbacks would be imposed and
12 for how much. Specifically, DIRECTV determined the rate of pay and the DTV
13 Home Services II, LLC administered payroll and provided Plaintiffs with their
14 paychecks.

15 90. DIRECTV, through the DTV Home Services II, LLC exerted control
16 over Plaintiffs sufficient to establish that they jointly employed Plaintiffs.
17 DIRECTV and DTV Home Services II, LLC constitute joint employers subject to
18 liability under the FLSA and state law.

19 91. DIRECTV customers considered Plaintiffs to be employees of
20 DIRECTV.

21 92. DIRECTV promulgates detailed instructions for how installations are
22 to be completed. Plaintiffs received these instructions and performed the work as
23 DIRECTV required. Plaintiffs were not given meaningful discretion in how they
24 performed installations.

25 93. DIRECTV publishes training materials that technicians such as
26 Plaintiffs are required to review.

94. DIRECTV requires that all technicians obtain a certification from the Satellite Broadcasting & Communications Association (“SBCA”) before that technician may be assigned DIRECTV work orders. This requirement allows DIRECTV to mandate certain training for all technicians.

95. DIRECTV utilizes a network of quality control personnel and field managers to oversee the work performed by Plaintiffs.

96. DIRECTV and DTV Home Services II, LLC's quality control personnel reviewed Plaintiffs' work, and Plaintiffs were subject to chargebacks and/or rollbacks based on those reviews.

97. While DIRECTV may not maintain Plaintiffs' employment-related documents at its corporate office, DIRECTV contractually requires its middle men (like DTV Home Services II, LLC), to provide DIRECTV the right to inspect and/or obtain copies of Plaintiffs' personnel files and employment-related documents.

98. Defendants are each engaged in interstate commerce and, upon information and belief, Defendants each gross more than Five Hundred Thousand Dollars in revenue per year.

99. The net effect of Defendants' policies and practices, instituted by DIRECTV and administered by Provider Defendant, is that Defendants willfully fail to pay minimum wage and overtime compensation to Plaintiffs, and willfully fail to keep accurate time records in order to save payroll costs. Defendants enjoy ill-gained profits at the expense of their technicians, including Plaintiffs.

COUNT I

Violation of the Fair Labor Standards Act of 1938

By each Plaintiff individually against Plaintiff's previously identified joint-employer-Defendant(s)

100. Plaintiffs re-allege all allegations set forth above.

1 101. At all times material herein, Plaintiffs have been entitled to the rights,
2 protections, and benefits provided under the FLSA, 29 U.S.C. §§ 201, *et seq.*

3 102. The FLSA regulates, among other things, the payment of overtime
4 pay by employers whose employees are engaged in interstate commerce, or
5 engaged in the production of goods for commerce, or employed in an enterprise
6 engaged in commerce or in the production of goods for commerce. 29 U.S.C. §
7 207(a)(1).

8 103. The FLSA also regulates, among other things, the payment of
9 minimum wage by employers whose employees are engaged in interstate
10 commerce, or engaged in the production of goods for commerce, or employed in
11 an enterprise engaged in commerce or in the production of goods for commerce.
12 29 U.S.C. §§ 206(a) and 207(a)(1).

13 104. Defendants are subject to the minimum wage and overtime pay
14 requirements of the FLSA because they are enterprises engaged in interstate
15 commerce and their employees are engaged in commerce.

16 105. Defendants violated the FLSA by failing to pay all minimum wage
17 and overtime wages due to Plaintiffs, failing to properly calculate Plaintiffs'
18 regular rate of pay for determining the overtime premium pay owed, and
19 improperly deducting money from Plaintiffs' pay.

20 106. Plaintiffs are entitled to damages equal to the mandated minimum
21 wage and overtime premium pay within the three years preceding the filing their
22 consent to join forms in the *Lang* litigation, plus periods of equitable tolling,
23 because Defendants acted willfully and knew or showed reckless disregard in their
24 violation of the FLSA.

25 107. Pursuant to Defendants' policies and practices, Defendants willfully
26 violated the FLSA by refusing and failing to pay Plaintiffs overtime and minimum
27 wages. In the course of perpetrating these unlawful practices, Defendants willfully
28

1 failed to keep accurate records of all hours worked by, compensation paid to, and
2 expenses incurred by Plaintiffs.

3 108. Defendants have acted neither in good faith nor with reasonable
4 grounds to believe that their actions and omissions were not a violation of the
5 FLSA. As a result thereof, Plaintiffs are each entitled to recover an award of
6 liquidated damages in an amount equal to the amount of unpaid wages as described
7 by Section 16(b) of the FLSA, codified at 29 U.S.C. § 216(b). Alternatively,
8 should the Court find Defendants acted in good faith in failing to pay Plaintiffs
9 minimum wage and overtime compensation, Plaintiffs are each entitled to an
10 award of prejudgment interest at the applicable legal rate.

11 109. As a result of these violations of the FLSA's minimum wage and
12 overtime pay provisions, compensation has been unlawfully withheld from
13 Plaintiffs by Defendants. Accordingly, pursuant to 29 U.S.C. § 216(b), Defendants
14 are liable for the unpaid minimum wages and overtime premium pay along with an
15 additional amount as liquidated damages, pre-judgment and post-judgment interest,
16 reasonable attorneys' fees, and costs of this action.

17 110. Plaintiffs request relief as described below and as permitted by law.

18 **COUNT II**

19 **Violation of the California Minimum Wage and Overtime Law**

20 *By each Plaintiff individually against Plaintiff's previously identified joint-*
21 *employer-Defendant(s)*

22 111. Plaintiffs re-allege the allegations set forth above.

23 112. Defendants violated California law, in relevant part, by failing to pay
24 overtime premium pay to Plaintiffs as required by California Labor Code §§ 510,
25 1194; 8 C.C.R. § 11040; and California Wage Order 4-2001.

26 113. Defendants violated California law, in relevant part, by willfully
27 failing to compensate Plaintiffs for all wages earned and all hours worked at at
28

1 least the minimum wage fixed by the commission in violation of California Labor
2 Code §§ 1194, 1197.

3 114. Further, Plaintiffs are entitled to recover minimum and overtime
4 wages plus interest, attorneys' fees, and costs pursuant to § 1194, in amounts to be
5 proved at trial.

6 115. As alleged herein, Plaintiffs were paid piece-rate for very limited and
7 specific tasks that they completed for Defendants. They were not compensated for
8 other tasks completed for Defendants' benefit. Moreover, Plaintiffs were not
9 compensated for all time worked during the continuous workday.

10 116. Plaintiffs have been damaged by Defendants' willful failure to
11 compensate them as required by law.

12 117. Plaintiffs request relief as described below and as permitted by law.

13 **COUNT III**

14 **Failure to Pay Wages Due on Discharge, Layoff, or Resignation**

15 *By each Plaintiff individually against Plaintiff's previously identified joint-*
16 *employer-Defendant(s)*

17 118. Plaintiffs re-allege the allegations set forth above.

18 119. Under California Labor Code § 201 (discharge or lay-off) and/or §
19 202 (resignation), Plaintiffs are entitled to timely payment of all wages earned and
20 unpaid, immediately upon termination (discharge) or within 72 hours of notice
21 (resignation).

22 120. Defendants willfully violated their obligations under Labor Code §§
23 201 and/or 202, by intentionally failing to pay Plaintiffs all wages earned and
24 unpaid at the time of their termination/resignation or within 72 hours thereafter, in
25 that Defendants' compensation system clearly violates both the FLSA and
26 California's Labor Law such that any belief by Defendants that wages were not
27 owed to Plaintiffs would be objectively unreasonable and in bad faith. Despite the
28

ability to make such payment, Defendants maintained customs, policies, practices, procedures, and routines incompatible with the requirements of California Labor Code.

121. As a direct and proximate cause of Defendants' actions, Plaintiffs have suffered damages.

122. Defendants are liable for statutory penalties (continuation wages) pursuant to California Labor Code § 203, and prejudgment interest on unpaid and continuation wages pursuant to California Labor Code § 218.6 and/or California Civil Code § 3287(a).

123. Plaintiffs request relief as described below and as permitted by law.

COUNT IV

Unlawful Wage Deductions, Collection From Wages (Chargebacks)

By each Plaintiff individually against Plaintiff's previously identified joint-employer-Defendant(s)

124. Plaintiffs re-allege the allegations set forth above.

125. Under California Labor Code § 221, it is unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.

126. As alleged herein, Defendants regularly collected "chargebacks" from Plaintiffs' pay and in so doing willfully and intentionally violated California Labor Code § 221.

127. As a direct and proximate result, Plaintiffs have suffered damages.

128. Defendants are liable for statutory penalties pursuant to Labor Code § 225.5.

129. Plaintiffs request relief as described below and as permitted by law.

COUNT V

Failure to Furnish Wage Statements

By each Plaintiff individually against Plaintiff's previously identified joint-employer-Defendant(s)

130. Plaintiffs re-allege the allegations set forth above.

131. Under California Labor Code § 226, Defendants are required to provide itemized statements when they pay wages showing gross wages earned, total hours worked, number of piece rate units earned, deductions, net wages, inclusive dates of pay period, and other information.

132. Defendants willfully violated their obligations under California law, including those under California Labor Code §§ 226(a) and 226.3, *et seq.*, by knowingly and intentionally failing to provide Plaintiffs with timely and accurate wage statements.

133. As a direct and proximate result, Plaintiffs have suffered damages. Among other things, Defendants' failure led plaintiffs to believe that they were being paid for all hours and jobs actually worked; Defendants' wage statement failures prevented and will prevent Plaintiffs from determining the true amounts of wages owed to them; and caused Plaintiffs and will cause them extra work and effort to determine their true wages and the identity of their employer(s).

134. Defendants are liable for statutory penalties pursuant to California Labor Code § 226(e).

135. Plaintiffs request relief as described below and as permitted by law.

COUNT VI

Willful Misclassification

By each Plaintiff individually against Plaintiff's previously identified joint-employer-Defendant(s)

136. Plaintiffs re-allege the allegations set forth above.

1 146. As a direct and proximate cause of defendants' actions, Plaintiffs have
2 suffered damages.

3 147. Plaintiffs request relief as described below and as permitted by law.

4 **COUNT VIII**

5 **Record-Keeping Violations**

6 *By each Plaintiff individually against Plaintiff's previously identified joint-*
7 *employer-Defendant(s)*

8 148. Plaintiffs re-allege the allegations set forth above.

9 149. Under California Labor Code § 1174, Defendants are required to keep
10 payroll records showing the hours worked daily by and the wages paid to, and the
11 number of piece-rate units earned by and any applicable piece rate paid to, its
12 employees.

13 150. Defendants willfully violated their obligations under California law,
14 including those under California Labor Code §§ 1174(d) and 1174.5, *et seq.*, by
15 knowingly and intentionally failing to maintain accurate and complete payroll
16 records showing the hours worked daily by and the wages paid to, and the number
17 of piece-rate units earned by and the applicable piece rate paid to Plaintiffs.

18 151. As a direct and proximate result, Plaintiffs have suffered damages.
19 Among other things, Defendants' failures prevented and will prevent Plaintiffs
20 from determining the true amounts of wages owed to them; and caused Plaintiffs
21 and will cause them extra work and effort to determine their true wages and the
22 identity of their employer(s). Defendants are liable for statutory penalties pursuant
23 to California Labor Code § 1174.5.

24 Plaintiffs request relief as described below and as permitted by law.
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26
27
28

COUNT IX

Unfair Business Practices

By each Plaintiff individually against Plaintiff's previously identified joint-employer-Defendant(s)

152. Plaintiffs re-allege the allegations set forth above.

153. California's Business and Professions Code § 17200, *et seq.* prohibits acts of unfair competition, which shall mean and include any "unlawful business act or practice."

154. The policies, acts, and practices described in this Complaint were and are an unlawful business act or practice because Defendants' failure to pay wages due, overtime wages at the lawful rate, and failure to provide accurate and timely wage statements violates applicable California Labor Code sections, including but not limited to California Labor Code §§ 201, 202, 203, 204, 210, 226, 510, 558, 1174, 1194, and 2698 *et seq.*, and other provisions of California common and/or statutory law. Moreover, Defendants' failure to pay minimum wage and overtime violates the FLSA. Plaintiffs reserve the right to allege additional statutory and common law violations by Defendants.

155. These practices were and are unfair and resulted in injury to Plaintiffs and the general public in that Defendants' unlawful acts result in the loss to Plaintiffs of wages to which they are rightfully owed and harm to competition in the State of California thereby decreasing consumer choice.

156. The policies acts and practices described in this Complaint were and are an unlawful business act or practice because any justification for Defendants' illegal and wrongful conduct were and are vastly outweighed by the harm such conduct caused Plaintiffs and the members of the general public.

157. Defendants' unlawful business practices are likely to continue.

1 158. As a direct and proximate result of the Defendants' conduct,
 2 Defendants have received and continue to receive money to which they are not
 3 rightfully entitled that rightfully belongs to Plaintiffs, and an unfair competitive
 4 advantage through retaining money that is due their employees pursuant to federal
 5 and state law.

6 159. Plaintiffs request relief as described below and as permitted by law.

7 **WHEREFORE**, Plaintiffs request the Court enter judgment for Plaintiffs
 8 individually and:

- 9 a. Award damages for unpaid minimum wages and unpaid overtime
 10 wages under 29 U.S.C. § 216(b) and California Labor Code § 1194;
- 11 b. Award damages for unpaid wages under California Labor Code §§
 12 201 and/or 202;
- 13 c. Award damages for unreimbursed business expenses, including
 14 refunds of wages improperly deducted by Defendants, reasonable
 15 attorney's fees, and costs of suit pursuant to California Labor Code §
 16 2802;
- 17 d. Issue a permanent injunction pursuant to Business and Professions
 18 Code § 17203 restraining and enjoining Defendants from continuing
 19 the unfair practices set forth above;
- 20 e. Issue, during the pendency of this action, a preliminary injunction
 21 pursuant to Business and Professions Code § 17203 to enjoin and
 22 restrain Defendants from the practices set forth above;
- 23 f. Award restitution under Business and Professions Code § 17203;
- 24 g. Impose penalties and amounts provided in California Labor Code §§
 25 203(a), 225.5, 226(e), 558, 1174.5, 2698, and other provisions;
- 26 h. Award liquidated damages under 29 U.S.C. § 216(b) and California
 27 Labor Code § 1194;

- i. Award reasonable attorney's fees under the California Labor Code and Fair Labor Standards Act;
- j. Award pre-judgment interest;
- k. Award costs of suit under 29 U.S.C. § 216(b) and California Labor Code § 1194; and
- l. Grant any further relief that the Court may deem just and equitable.

DATED: November 1, 2013

Respectfully submitted,

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